



Government
of South Australia

TRS19D1073

Hon Stephen Mullighan MP
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Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 8 May 2019.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'I Work for SA Your Voice Survey – Ministerial Provision of South Australian Government Highlights Report' as described on the Objective document management system, between 12 July 2018 and 8 May 2019."

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 26 May 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

I release you access in part to 1 document; a copy of which is enclosed.

Document Released in Part

Document 1 is a briefing prepared by the Commissioner for Public Sector Employment in relation to the South Australian Public Sector Highlights report for the I WORK FOR SA – Your Voice Survey.

The briefing is released in part as it contains information which, if released, would disclose details concerning a deliberation or decision of Cabinet. I have therefore determined to exempt this information pursuant to clause 1(1)(e).

I advise that Attachments 1 and 2 are exempt as this information was prepared for the use of a Minister regarding a matter which was submitted to Cabinet. I therefore determine this information exempt pursuant to clause 1(1)(f).

In addition, both documents were prepared internally and contains advice and recommendations which were considered for the purpose of decision making relating to the functions of Government. On balance, it is not in the public interest to disclose the content of these documents as it is important for the Government to receive frank and comprehensive advice and opinions, including the expression of views which may be contentious. The prospect that unknown third parties may obtain access to those documents by way of an FOI application may inhibit the provision of full and open opinions and recommendations on such matters in the future.

These documents are provided to me on the basis that they are both forthright and candid. If disclosed, such advice and commentary would not be provided in a candid and forthright manner. Disclosure may also lead to confusion and unnecessary debate resulting from the disclosure of possibilities that are being considered.

Whilst there is a strong public interest in government accountability and transparency, there is the competing public interest to ensure that full and frank advice can occur in confidence. It is necessary that I'm appropriately informed and updated on these matters.

It is my submission that disclosure would, on balance, be contrary to public interest. This is because a Minister of the Crown, as one of the highest offices of a Government, should be able to communicate sensitive matters without subsequent promulgation of opinion and advice deliberated in pre-decisional communications. Disclosure would inhibit frankness and candour in future pre-decisional communications at the highest level of Government and lead to confusion and unnecessary debate resulting from disclosure of possibilities considered. This is the longstanding legal position and there is no reason to depart from that in this matter.

On the balance, it is my submission that the information contained in both attachments should not be released for the reasons outlined above, pursuant to clause 9 of the Act.

Please note that the I WORK FOR SA – Your Voice Survey South Australian Government Highlights Report referenced in Attachment 1, is publicly available on the Office of the Commissioner for Public Sector Employment website and therefore has not been provided to you.

Exemptions

Clause 1 – Cabinet Documents

(1) *A document is an exempt document—*

- (a) if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
- (b) if it is a preliminary draft of a document referred to in paragraph (a); or*
- (c) if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
- (e) if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*
- (f) if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

Clause 9 — Internal Working Documents

(1) *a document is an exempt document if it contains matter—*

(a) *that relates to—*

- (i) *any opinion, advice or recommendation that has been obtained, prepared or recorded; or*
 - (ii) *any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and*
- (b) *the disclosure of which would, on balance, be contrary to the public interest.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

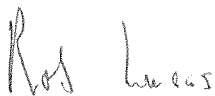
In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

6 August 2020

RELEASE IN PART

MINUTE



Government of South Australia
Office of the Commissioner
for Public Sector Employment

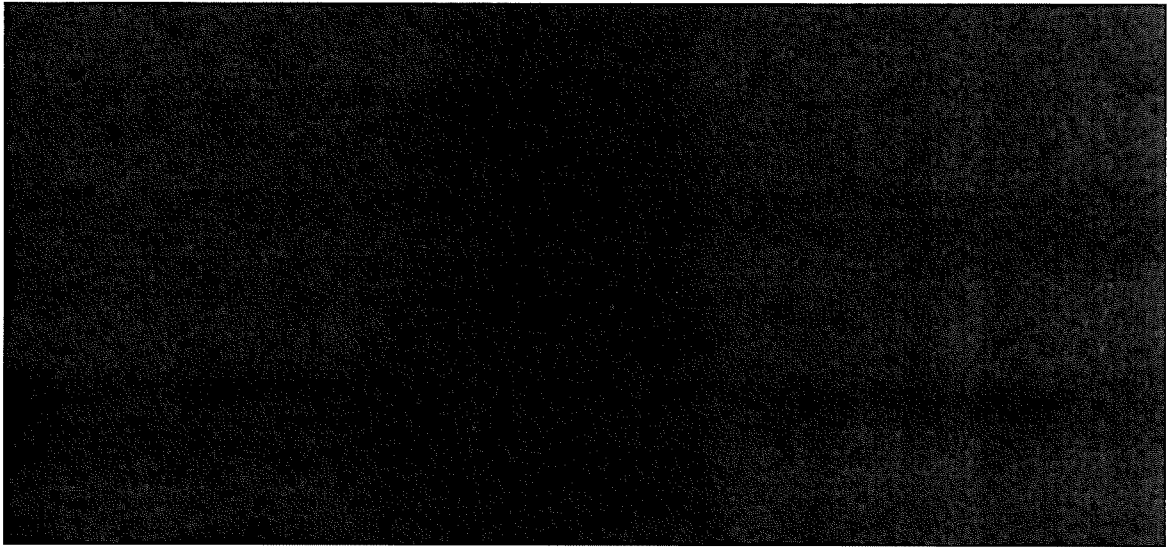
Date: 13/2/19
File No: T19/053
Physical ID: T19D00208

File: DPC16/3602

Reg: DPC19D00208

TO: TREASURER

SUBJECT: I WORK FOR SA YOUR VOICE SURVEY - MINISTERIAL PROVISION OF SOUTH AUSTRALIAN GOVERNMENT HIGHLIGHTS REPORT



RECOMMENDATIONS



It is recommended that you:




I briefed them at the time Cabinet noted progress on this issue.

APPROVED/NOT APPROVED



 Erma Ranieri COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT 12/2/2019	 Hon. Rob Lucas MLC TREASURER 15/2/2019
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Attachments:

- Attachment 1 -  - I WORK FOR SA - Your Voice Survey - Progress update and briefing of Ministers

